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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,748	08/01/2003	Rajasingh Israel	126238 (GECZ 2 00672)	3854
27885	7590	06/09/2006	EXAMINER	
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114			GUHARAY, KARABI	
			ART UNIT	PAPER NUMBER
			2879	
DATE MAILED: 06/09/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/632,748

Applicant(s)

ISRAEL ET AL.

Examiner

Karabi Guharay

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Amednment, filed on 3/30/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 15-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 & 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

Amendment, filed on 3/30/06 has been considered and entered.

KG Amendment<sup>S</sup> of claims, filed on 3/30/06 are not in compliance with 37 CFR 1.121.

In listing of claims, "status identifier" for each claim should be proper. Claim 19 is withdrawn, however, it is listed as "original", further claims 21-24 are cancelled, applicant should list them as cancelled. See MPEP 714 [R-3].

Claims 1-20 are currently pending, while claims 15-19 are withdrawn.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 & 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 & 12 recite the limitation "the silver layer". As there is no earlier recitation of "silver layer" in the claim, it is unclear as to what element the limitation is referring. There are insufficient antecedent basis for this limitation in the claims.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-14 & 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Zhou et al. (US 6,382,816).

Regarding claims 1, 12 and 20, Zhao discloses a method of forming a lamp (see at least Figs. 2, 3 and 8) comprising; providing a reflective interior surface comprising: providing a layer 14 of reflective material (see Col. 3, line 43), and providing a protective layer 16 (see Col. 3, lines 45-46) which protects the layer of reflective material against oxidation and sulfide formation (see Col. 4, lines 64-67), and forming the lamp from the interior surface and a light source, the protective layer having a predetermined thickness. Zhao discloses the reflective layer comprising silver and the protective layer comprising silica having a thickness in the range of 500 to 1400 Å (see Col. 6, lines 24-27), since silica has refractive index of 1.46, the optical thickness  $t_{opt}$  for the protective layer of Zhou satisfy the claimed relationship, (thickness of the protective layer of Zhou has same range as claimed thickness range, and material for the protective layer is same as claimed material).

The reference is silent regarding the limitation of a color correction temperature of the lamp is no less than 40K below a color correction temperature of the light source, and a % reflectance of the reflective interior surface is no less than about 3% below that of an equivalent reflective interior surface without the protective layer in a visible spectral range of 400-800 nm.

However, the Examiner notes that Zhao discloses each and every structural limitation of the claims. Accordingly, the reference necessarily provides the functions of " a color correction temperature of the lamp is no less than 40K below a color correction

temperature of the light source, and a % reflectance of the reflective interior surface is no less than about 3% below that of an equivalent reflective interior surface without the protective layer in a visible spectral range of 400-800 nm" since they are inherent of the structure.

Regarding claim 2, the claim is rejected over the reasons stated in claim 1.

→ Regarding claims 3 and 4, Zhao discloses the color correction temperature being no less than about 20 K below that of the light source (see disclosed thickness for protective layer in Col. 6, lines 24-27).

Regarding claims 5-7, Zhao discloses the % reflectance of the reflective interior surface being at least 94.5% in the visible spectral range of 400-800 nm (see disclosed materials and thicknesses for reflective layer and coating layer, in view of rejection of claim 1).

Referring to claim 8, Zhao discloses the reflective material comprising silver (see Col. 5, lines 9-12).

Referring to claim 9, Zhao discloses the protective layer comprising silica, titania or alumina (see at least Col. 3, lines 46-47).

Referring to claim 10, Zhao discloses the protective layer comprising silica (see at least Col. 6, lines 24-27).

Referring to claim 11, Zhao discloses the protective layer comprising silica having a thickness in the range of 850-1400 Å (see Col. 6, lines 24-27).

In regards to claim 13, Zhao discloses the method including a tubulation step, wherein the step of providing the protective layer includes forming the reflective layer

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after the tubulation step (see Col. 7, lines 32-35). The Examiner note that while this embodiment is not preferred, the reference still anticipates the claimed method.

In regards to claim 14, Zhao discloses the protective layer being deposited by CVD (see Col. 6, lines 8-10, in view of Col. 5, line 16).

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 12-14 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 12-14 of copending Application No. 10/633,085. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 12-14 of the instant application are anticipated by the claims 12-14 respectively of copending application 10/633,085.

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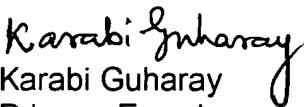
This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karabi Guharay whose telephone number is (571) 272-2452. The examiner can normally be reached on Monday-Friday 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimeshkumar D. Patel can be reached on (571) 272-2457. The fax phone number for the organization is (571) 273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Karabi Guharay  
Primary Examiner  
Art Unit 2879